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RIV

AMENDMENT NO.	Calendar No.

Purpose: To increase public safety by denying registered provisional immigrant status to any alien who has been convicted of the crime of domestic violence, child abuse, assault with bodily injury, violation of a protective order, or drunk driving, by reducing the number of misdemeanors that would make an applicant ineligible for such status, and by eliminating the Secretary of Homeland Security's authority to waive the application of such provision.

IN TH	AMENDMENT Nº	1688	ess.
	By Coburn		
To	То:		r
	5.744		
Refe	7		nd
	Page(s)		
	GPO: 2012	77–320 (mac)	

AMENDMENT intended to be proposed by Mr. Coburn

Viz:

- 1 At the appropriate place, insert the following:
- 2 SEC. ___. GROUNDS FOR INELIGIBILITY FOR REGISTERED
- 3 PROVISIONAL IMMIGRANT STATUS.
- 4 Section 245B(b) of the Immigration and Nationality
- 5 Act, as added by section 2101, is further amended by
- 6 striking paragraph (3) and inserting the following:
- 7 "(3) Grounds for ineligibility.—

1	(A) IN GENERAL.—Except as provided in
2	subparagraph (B), an alien is ineligible for reg-
3	istered provisional immigrant status if the Sec-
4	retary determines that the alien—
5	"(i) has a conviction for—
6	"(I) an offense classified as a fel-
7	ony in the convicting jurisdiction
8	(other than a State or local offense
9	for which an essential element was the
10	alien's immigration status, or a viola-
11	tion of this Act);
12	"(II) an aggravated felony (as
13	defined in section 101(a)(43) at the
14	time of the conviction);
15	"(III) an offense (unless the ap-
16	plicant demonstrates, by clear and
17	convincing evidence, that he or she is
18	innocent of the offense, that he or she
19	is the victim of such offense, or that
20	no offense occurred), which is classi-
21	fied as a misdemeanor in the con-
22	victing jurisdiction, and which in-
23	volved—
24	"(aa) domestic violence or
25	child abuse and neglect (as such

1	terms are defined in section
2	40002(a) of the Violence Against
3	Women Act of 1994 (42 U.S.C.
4	13925(a)));
5	"(bb) assault resulting in
6	bodily injury or the violation of a
7	protection order (as such terms
8	are defined in section 2266 of
9	title 18, United States Code); or
10	"(cc) driving while intoxi-
11	cated (as defined in section 164
12	of title 23, United States Code);
13	"(IV) 2 or more misdemeanor of-
14	fenses (other than minor traffic of-
15	fenses or State or local offenses for
16	which an essential element was the
17	alien's immigration status or viola-
18	tions of this Act);
19	"(V) any offense under foreign
20	law, except for a purely political of-
21	fense, which, if the offense had been
22	committed in the United States,
23	would render the alien inadmissible
24	under section 212(a) (excluding the
25	paragraphs set forth in clause (ii)) or

1	removable under section 237(a), ex-
2	cept as provided in paragraph (3) of
3	section 237(a); or
4	"(VI) unlawful voting (as defined
5	in section $237(a)(6)$;
6	"(ii) is inadmissible under section
7 212(8	a), except that in determining an
8 alien	's inadmissibility—
9	"(I) paragraphs (4), (5), (7), and
10	(9)(B) of section 212(a) shall not
11	apply;
12	"(II) subparagraphs (A), (C),
13	(D), (F), and (G) of section 212(a)(6)
14	and paragraphs (9)(C) and (10)(B) of
15	section 212(a) shall not apply unless
16	based on the act of unlawfully enter-
17	ing the United States after the date
18	of the enactment of the Border Secu-
19	rity, Economic Opportunity, and Im-
20	migration Modernization Act; and
21	"(III) paragraphs (6)(B) and
22	(9)(A) of section 212(a) shall not
23	apply unless the relevant conduct
24	began on or after the date on which
25	the alien files an application for reg-

1	istered provisional immigrant status
2	under this section;
3	"(iii) is an alien who the Secretary
4	knows or has reasonable grounds to be-
5	lieve, is engaged in or is likely to engage
6	after entry in any terrorist activity (as de-
7	fined in section 212(a)(3)(B)(iv)); or
8	"(iv) was, on April 16, 2013—
9	"(I) an alien lawfully admitted
10	for permanent residence;
11	"(II) an alien admitted as a ref-
12	ugee under section 207 or granted
13	asylum under section 208; or
14	"(III) an alien who, according to
15	the records of the Secretary or the
16	Secretary of State, is lawfully present
17	in the United States in any non-
18	immigrant status (other than an alien
19	considered to be a nonimmigrant sole-
20	ly due to the application of section
21	244(f)(4) or the amendment made by
22	section 702 of the Consolidated Nat-
23	ural Resources Act of 2008 (Public
24	Law 110-229)), notwithstanding any

1	unauthorized employment or other
2	violation of nonimmigrant status.
3	"(B) Waiver.—
4	"(i) IN GENERAL.—The Secretary
5	may waive the application of any provision
6	of section 212(a) that is not listed in
7	clause (ii) on behalf of an alien for human-
8	itarian purposes, to ensure family unity, or
9	if such a waiver is otherwise in the public
10	interest. Any discretionary authority to
11	waive grounds of inadmissibility under sec-
12	tion 212(a) conferred under any other pro-
13	vision of this Act shall apply equally to
14	aliens seeking registered provisional status
15	under this section.
16	"(ii) Exceptions.—The discretionary
17	authority under clause (i) may not be used
18	to waive—
19	"(I) subparagraph (B), (C),
20	(D)(ii), (E), (G), (H), or (I) of section
21	212(a)(2);
22	"(II) section 212(a)(3);
23	"(III) subparagraph (A), (C),
24	(D), or (E) of section 212(a)(10); or

1	"(IV) with respect to misrepre-
2	sentations relating to the application
3	for registered provisional immigrant
4	status, section $212(a)(6)(C)(i)$.
5	"(C) CONVICTION EXPLAINED.—For pur-
6	poses of this paragraph, the term 'conviction'
7	does not include a judgment that has been ex-
8	punged, set aside, or the equivalent.
9	"(D) Rule of construction.—Nothing
0	in this paragraph may be construed to require
1	the Secretary to commence removal proceedings
12	against an alien.".